

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-111-C

In Re:)	
Application of Broadvox-CLEC, Inc.)	
for a Certificate of Public Convenience)	
and Necessity to Provide Resold and)	SETTLEMENT AGREEMENT
Facilities-Based Local Exchange and)	
Interexchange Telecommunications)	
Services in the State of South Carolina)	

This Settlement Agreement ("Settlement Agreement") is made by and among the Office of Regulatory Staff ("ORS") and Broadvox-CLEC, LLC("Broadvox-CLEC" or "the Company") (collectively referred to as the "Parties" or sometimes individually as "Party");

WHEREAS, on March 10, 2009, Broadvox-CLEC filed its Application, pursuant to S.C. Code Ann. § 56-9-280 (B); requesting (i) a Certificate of Public Convenience and Necessity be granted authorizing Broadvox-CLEC to provide resold and facilities-based local exchange and interexchange telecommunications services throughout the State of South Carolina; (ii) regulation of its interexchange services in accordance with procedures authorized for NewSouth Communications in Order No. 98-165 in Docket No. 97-467-C; (iii) for interexchange service offerings to be regulated in accordance with procedures established for alternative regulation in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C; waiver of certain regulations of the Public Service Commission of South Carolina ("Commission"), specifically Regulations 103-610 regarding location of records, 103-612.2.3 for operating maps and 103-631 concerning

publishing and distributing local exchange directories; and (v) a waiver of any requirement to maintain financial records in conformance with the Uniform System of Accounts (“USOA”);

WHEREAS on July 9, 2009, the Commission issued a Notice of Filing and Hearing and established a return date of April 13, 2009, for the filing of letters of protest or petitions to intervene and established a hearing date of June 15, 2009 for the application to be heard before a hearing examiner;

WHEREAS, on April 8, 2009, the South Carolina Telephone Coalition (“SCTC”) filed a Petition to Intervene in this docket;

WHEREAS, on March 25, 2009, the Commission issued its Order No. 2009- 182 by which the Commission appointed David Butler, Esquire as the Hearing Examiner in this matter;

WHEREAS, on May 11, 2009, the SCTC filed with the Commission a Stipulation between the SCTC and Broadvox-CLEC;

WHEREAS, on March 24, 2009, Broadvox-CLEC pre-filed the direct testimony of Jeff Slater with the Commission;

WHEREAS, the purpose of this proceeding is to review the application filed by Broadvox-CLEC and its requests (i) for a Certificate of Public Convenience and Necessity to provide facilities-based and resold local exchange and interexchange telecommunications services within the State of South Carolina; (ii) for alternative regulation of its interexchange services (iii) for flexible regulation for its local exchange telecommunications services (iv) for waiver of certain of the Commission Regulations, specifically Regulations 103-610 regarding location of records, 103-612.2.3 for operating maps and 103-631 concerning publishing and distributing local exchange directories; and (v) for waiver of any requirement to maintain financial records in conformance with the USOA;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial, and financial expertise of Broadvox-CLEC to provide the services requested in the Application;

WHEREAS, ORS has reviewed the Application and the financial data provided by Broadvox-CLEC, and ORS has calculated certain performance ratios based upon information provided by the Broadvox-CLEC;

WHEREAS, ORS has investigated the services to be offered by Broadvox-CLEC and its intended customer service plans;

WHEREAS, ORS has reviewed the proposed tariffs submitted by Broadvox-CLEC;

WHEREAS, ORS has reviewed the pre-filed testimony of Jeff Slater;

WHEREAS, as a result of its investigations, ORS has determined (a) Broadvox-CLEC intends to offer resold and facilities-based local and long-distance telecommunications services, and will provide leased capacity, private line, and dedicated local transport; (b) the officers of Broadvox-CLEC possess sufficient technical and managerial abilities to adequately provide the services applied for; (c) based upon the information provided and the analysis performed, Broadvox-CLEC appears to have access to sufficient financial resources necessary to provide the services proposed in its application; (d) Broadvox-CLEC's proposed tariffs with the amendments as agreed to in this Settlement Agreement comply with Commission statutes and regulations; (e) the provision of services by Broadvox-CLEC will not adversely impact the availability of affordable telecommunications services; (f) to the extent it is required to do so by the Commission, Broadvox-CLEC will participate in the support of universally available telephone service at affordable rates; and (g) the provision of local exchange and interexchange services by Broadvox-CLEC will not adversely impact the public interest;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1) The Parties agree that Broadvox-CLEC's Application and exhibits to the Application are incorporated into this Settlement Agreement and made a part hereof;

2) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the pre-filed testimony of Broadvox-CLEC's witness Jeff Slater without cross-examination by ORS;

3) Broadvox-CLEC has submitted financial data, which was provided as Exhibit 4 to Broadvox-CLEC's Application and which was granted Protective Treatment by Commission Hearing Examiner Directive dated February 8, 2008 and which financial data is incorporated by reference;

4) The Parties agree that Broadvox-CLEC should be granted a Certificate of Public Convenience and Necessity to provide facilities-based and resold local exchange and interexchange telecommunications services within the state of South Carolina;

5) Broadvox-CLEC has requested a waiver of 26 S.C. Code Ann. Regulation 103-610 concerning the location of books and records. However, S.C. Code Ann. §58-9-380 (Supp. 2006) provides that:

Each telephone utility shall have an office in one of the counties of this State in which its property or some part thereof is located and shall keep in such office all such books, accounts, papers and records as shall reasonably be required by the Office of Regulatory Staff. No books, accounts, papers or records required by the ORS to be kept within the State shall be removed at any time from the State except upon such conditions as may be prescribed by the Office of Regulatory Staff.

ORS is agreeable to allowing Broadvox-CLEC to maintain its books and records outside of the State of South Carolina in exchange for Broadvox-CLEC agreeing to provide ORS access to its books and records. ORS is agreeable to Broadvox-CLEC maintaining its books and records at its offices in the State of Kansas, and Broadvox-CLEC agrees to notify ORS of any change in the location of the principal office or in the location where the books and records are maintained. This provision of the Settlement Agreement shall not be construed as a waiver by ORS of S.C. Code Ann. § 58-4-55 (Supp. 2006) or § 58-9-1070 (Supp. 2006). ORS expressly reserves its rights to require the production of books, records and other information located within or outside of the State of South Carolina in order to carry out its duties in compliance with any state or federal regulation;

6) ORS does not oppose Broadvox-CLEC's request for waiver of 26 S.C. Code Ann. Regulation 103-631 which requires the publication and distribution of directories, and Broadvox-CLEC agrees to make arrangements with publishers of local directories in South Carolina to include the names and telephone numbers of Broadvox-CLEC's subscribers and customers in local directories, unless a subscriber indicates his/her desire for an unpublished telephone number;

7) Broadvox-CLEC has requested a waiver of any rule or regulation that might require a carrier to maintain its financial records in conformance with the Uniform System of Accounts ("USOA"). Broadvox-CLEC acknowledges that S.C. Code Ann. § 58-9-340 (Supp. 2006) provides that the ORS may, in its discretion and subject to the approval of the Commission, prescribe systems of accounts to be kept by telephone utilities subject to the commission's jurisdiction and that the ORS may prescribe the manner in which the accounts shall be kept and may require every telephone utility to keep its books, papers, and records accurately and

faithfully according to the system of accounts as prescribed by the ORS. Broadvox-CLEC agrees to keep its books, papers, and records in such a manner that permits ORS to audit revenues and expenses associated with its South Carolina operations for compliance with programs such as but not limited to the Universal Service Fund ("USF") and the Interim LEC Fund, dual party relay service fund, and gross receipts. Broadvox-CLEC agrees to complete the reporting forms for such programs as may be required by the ORS of telecommunications companies certificated to operate within South Carolina and as the reporting forms may be amended from time to time;

8) ORS does not oppose the Company's request for waiver of 26 S.C. Code Ann. Regulation 103-612.2.3 which requires the filing of operating area maps;

9) ORS does not oppose Broadvox-CLEC's requests (a) for flexible regulation for its local telecommunications service offerings consistent with Order No. 98-165 in Docket No. 97-467-C, such flexible regulation including specifically (i) adoption of a competitive rate structure incorporating maximum rate levels with the flexibility for rate adjustment below the maximum rate levels and (ii) presumptively valid tariff filings upon filing subject to an investigation of such tariff filing being instituted within thirty (30) days and (b) for alternative regulation of its interexchange service offerings consistent with the procedures described and set forth in Orders 95-1734 and 96-55 in Docket No. 95-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C, specifically (i) regulation of these services listed above in the same manner as these services are regulated of AT&T Communications of the Southern States, Inc., (ii) removal of the maximum rate tariff requirements for Broadvox-CLEC's business services, private line, and customer network-type offerings, except in instances governed by Order No. 2001-997 which reinstituted maximum rates for surcharges and rates associated with certain intrastate operator-

assisted calls; (iii) presumptively valid tariff filings for these interexchange services unless an investigation of a particular filing is instituted within seven (7) days, in which case the tariff filing will be suspended until resolution of the investigation or until further order of the Commission; and (iv) grant Broadvox-CLEC the same treatment as AT&T Communications of the Southern States, Inc. in connection with any future relaxation of reporting requirements;

10) Broadvox-CLEC agrees to resell the services only of those local exchange providers or interexchange carriers authorized to do business in South Carolina by the Commission;

11) Broadvox-CLEC agrees that it will allow an end-user of resold services to access an alternative interexchange carrier or operator service provider if the end-user expresses such a desire;

12) Broadvox-CLEC agrees to file necessary financial information as directed by the Commission or ORS for universal service fund reporting, dual party relay service fund reporting, interim LEC fund reporting, annual reporting, gross receipts reporting, and/or any other reporting which may now or in the future be applicable to telecommunications providers such as Broadvox-CLEC. The Parties agree that such reports shall be filed pursuant to ORS' instructions and monies shall be remitted in accordance with the directions of the ORS or the Commission.

13) Broadvox-CLEC agrees to maintain its books and records in a manner that would permit ORS to examine any of Broadvox-CLEC's reports filed with the Commission and/or ORS.

14) Broadvox-CLEC agrees to file with the Commission and ORS a completed authorized utility representative forms within thirty (30) days of the Commission's order.

15) In the event that Broadvox-CLEC offers prepaid calling card services in the future, Broadvox-CLEC agrees that it shall obtain Commission approval and post a surety bond in the amount of \$5,000 as required by the Commission;

16) Broadvox-CLEC agrees to comply with the verification regulations governing change of preferred carriers as established by the Federal Communications Commission ("FCC"). Broadvox-CLEC agrees to comply with the marketing practices and guidelines established by the Commission in Order No. 95-658;

17) Broadvox-CLEC agrees to comply with South Carolina Code Section § 58-9-300 entitled "Abandonment of Service." Additionally, to the extent applicable, Broadvox-CLEC agrees to adhere to the FCC's rule 47 C.F.R. § 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, Broadvox-CLEC shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

18) To the extent necessary, Broadvox-CLEC agrees to engage in good faith negotiations with non-BellSouth incumbent local exchange carriers whose networks interconnect with BellSouth at the same local tandem regarding traffic exchange;

19) It is understood and agreed that Broadvox-CLEC will not initially offer or provide any service that would implicate Title 23, Chapter 47 of the South Carolina Code Annotated regarding "Public Safety Communications Centers," but in the event that Broadvox-CLEC in the future offers or provides a service to which Title 23, Chapter 47 of the South Carolina Code regarding "Public Safety Communications Centers," also known as 911 services, Broadvox-CLEC agrees to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which

governs the establishment and implementation of a “Public Safety Communications Center,” also known as 911 services.” At that time, Broadvox-CLEC agrees to contact the appropriate authorities regarding 911 services in the counties and cities where Broadvox-CLEC will be operating prior to initiating local service in South Carolina and shall provide the 911 coordinator in each county and/or city with information regarding Broadvox-CLEC’s operations. Attached as Exhibit 1 to this Settlement Agreement is a memorandum from the State 911 Office which provides contact information for the County 911 Coordinators;

20) Broadvox-CLEC agrees to comply with all rules and regulations of the Commission unless the Commission has expressly waived such rule or regulation;

21) Broadvox-CLEC agrees to file a final revised tariff with both the ORS and the Commission and the revised tariff shall reflect and be in accordance with ORS’ recommendations as set forth in the summary attached as Exhibit 2 to this Settlement Agreement.

22) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

...’public interest’ means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;**
- (2) economic development and job attraction and retention in South Carolina; and**
- (3) preservation of the financial integrity of the State’s public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.**


ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

- 23) The Parties represent that the terms of this Settlement Agreement are based upon full and accurate information known as of the date this Settlement Agreement is executed. If, after execution, either Party is made aware of information that conflicts, nullifies, or is otherwise materially different than that information upon which this Settlement Agreement is based, either Party may withdraw from the Settlement Agreement with written notice to the other Party.
- 24) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and that the Commission take no action inconsistent with its adoption. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.
- 25) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation.
- 26) This Settlement Agreement shall be interpreted according to South Carolina law.

27) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

WE AGREE:

Representing the Office of Regulatory Staff

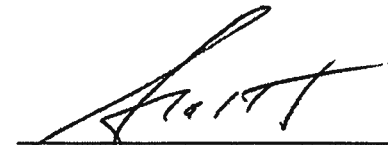


C. Lessie Hammonds, Esquire
Office of Regulatory Staff
1441 Main Street, Suite 300
Columbia, SC 29201
Telephone: (803) 737-0803
Fax: (803) 737-0895
Email: hammon@regstaff.sc.gov

06/20/09
Date

WE AGREE:

Representing Broadvox-CLEC, Inc.



Scott Elliott, Esquire
Elliott & Elliot, P.A.
701 Olive Street
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Telephone: (803) 771-0555
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Date

JUNE 29, 2019

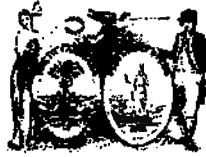
STATE OF SOUTH CAROLINA
State Budget and Control Board
OFFICE OF RESEARCH & STATISTICS

EXHIBIT 1

MARK SANFORD, CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

RICHARD ECKSTROM
COMPTROLLER GENERAL



HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

ROBERT W. HARRELL, JR.
CHAIRMAN, WAYS AND MEANS COMMITTEE

FRANK W. FUSCO
EXECUTIVE DIRECTOR

REMBERT C. DENNIS BUILDING
1000 ASSEMBLY STREET, SUITE 425
COLUMBIA, SOUTH CAROLINA 29201

Bobby Bowers
DIRECTOR

August 2, 2004

To: Telephone Companies New to South Carolina

In an effort to continue providing quality emergency services to the citizens of South Carolina, the State 911 Office requests that before beginning telephone services in a county, you contact the 911 Coordinator in that county. This will allow both parties to obtain important information about providing 911 services in that county. If you have already begun services, then contact the coordinator as soon as possible.

A list of County 911 Coordinators can be found on the South Carolina E911 homepage at www.ors.state.sc.us/digital/E-911.ASP. If you have any questions related to 911 in South Carolina, you may contact E911 Coordinations at the Office of Research and Statistics at 803-734-3883. The person responsible for this can also be found on the 911 homepage. Please be aware that some cities may have their own E911 systems, these are also listed on the 911 homepage. These city coordinators will need to be contacted in addition to the county coordinators.

ECONOMIC RESEARCH
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5 GEOLOGY ROAD
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STATISTICS
1919 BLANDING STREET
COLUMBIA, S.C. 29201
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(803) 898-9941



Recommendations for Broadvox-CLEC Interexchange Tariff No. 1

Original Sheet 3—The Company should modify the check sheet to reflect the correct number of pages in the tariff (check sheet has 32 pages, tariff actually has 34 pages)

Section 1—Technical Terms and Abbreviations

Original Sheet 7—within the definition of “Holiday”, the Company distinguishes rate periods; however the rates section has only one rate. (See Sheet 33 recommendation in Section 4 below).

Section 2—Rules and Regulations

--There are no recommendations for Section 2.

Section 3—Description of Service

--There are no recommendations for Section 3.

Section 4—Current Rates

Original Sheet 33 4.7—The Company includes Daytime, Evening, and Night/Weekend Rate Period. However, within the rates section there is only 1 rate. The Company should either delete the rate period subsection 4.7 or include Daytime, Evening, and Night/Weekend Rates in subsection 4.1, 4.2, and/or 4.3.

Section 5 Maximum Rates

--There are no recommendations for Section 5.

Additional Recommendations for Interexchange Tariff

- 1) If the Company charges any installation, connection, or maintenance charges, termination charges, etc. (in addition to the services listed in the tariff). These additional charges and the descriptions of the charges should be listed in the tariff with their current and maximum rates.



- 2) The Company should also provide tariffs and tariff revisions to the South Carolina Public Service Commission as well as the South Carolina Office of Regulatory Staff (SC Reg. 103-629).
- 3) If the Company's Services involve Prepaid Calling Cards, the Company will be required to post a \$5,000 Surety Bond with the Public Service Commission.
- 4) The Company is applying for Modified Alternate Regulation by the PSC. As a general rule, the Company should include maximum rates and current rates for any service that may impact residential Customers. Any service that impacts Business Long Distance, Consumer Cards, and Operator Services (Including Directory Assistance) are exempt from maximum rates. Only current rates would need to be filed for these services.

Recommendations for Broadvox-CLEC Local Tariff No. 2

Section 1-Definitions

--There are no recommendations for Section 1.

Section 2-Regulations

Original Sheet 35 2.5.3.2—The Company should modify the address of the ORS as follows (telephone numbers will remain the unchanged)—

South Carolina Office of Regulatory Staff
Consumer Services Division
1401 Main Street, Suite 900
Columbia, SC 29201

Section 3-Service Descriptions

Original Sheet 52 3.1.2.3.A—The Company should include maximum rates for all services.

Original Sheet 55 3.2.1—The Company should include maximum rates for all Directory Assistance charges.

Section 4-Promotional Offerings

--There are no recommendations for Section 4.



Section 5-Individual Case Base (ICB) Arrangements

Original Sheet 63 5.1—The Company should add the following language to the end of the paragraph—“All Individual Case Base Arrangements will be made available to the Commission and ORS upon request.”

Section 6—Local Service Offering

—There are no recommendations for Section 6.

Section 7-Local Exchange Services

Original Sheet 69 7.2.1.A—The Company should include maximum rates for all services.

Original Sheet 72 7.2.3.B—The Company should include maximum rates for all services in BellSouth and Verizon Service Areas.

Original Sheet 81 7.3.3.B— The Company should include maximum rates for all services in BellSouth and Verizon Service Areas.

Original Sheet 85 7.5.1—The Company should include maximum rates for all services.

Original Sheet 86 7.5.2—The Company should include maximum rates for all services.

Original Sheet 88 7.6—The Company should include maximum rates for all services that do not currently have a maximum rate in this section.

Original Sheet 90 7.6.2— The Company should include maximum rates for all services that do not currently have a maximum rate in this section.

Original Sheet 99 7.6.6—The Company should include maximum rates for all services.

Original Sheet 101 7.6.7—The Company should include maximum rates for all services.

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EXECUTIVE 16-17-18



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23-24-25-26

Original Sheet 103 7.7.4.B—The Company should include a maximum rate for Screening Options (also may consider maximum rate for unrestricted service if the Company may charge for this in the future).

Original Sheet 104 7.7.4 B&D—The Company should include maximum rates for both Screening Options.

Original Sheet 105 7.8.1—The Company should include maximum rates for all services.

Original Sheet 106 7.8.2.A—The Company should include maximum rates for all business and residential services.

Original Sheet 107 7.8.2.A—The Company should include maximum rates for all business and residential services.

Original Sheet 108 7.8.2.A— The Company should include maximum rates for all business and residential services.

Original Sheet 109 7.8.2.A— The Company should include maximum rates for all business and residential services.

Original Sheet 111 7.8.4 A&B—The Company should include maximum rates for both services.

Additional Recommendations for Local Exchange Tariff

- 1) If the Company charges any installation, connection, or maintenance charges, termination charges, etc. (in addition to the services listed in the tariff). These additional charges and the descriptions of the charges should be listed in the tariff with their current and maximum rates.
- 2) The Company should also provide tariffs and tariff revisions to the South Carolina Public Service Commission as well as the South Carolina Office of Regulatory Staff (SC Reg. 103-629).
- 3) The Company is applying for Flexible Regulation. Therefore, The Company will include maximum rates as well as current rates for all services within the Local Exchange Tariff and Access Exchange Tariff that are not exclusively ICB.

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2009-111-C

IN RE:

Application of Broadvox-CLEC, LLC for a)	
Certificate of Public Convenience and Necessity)	CERTIFICATE OF
to Provide Interexchange and Local Exchange)	SERVICE
Telecommunications Services and for Flexible)	
and Alternative Regulations)	

This is to certify that I, Chrystal L. Morgan, have this date served one (1) copy of the **SETTLEMENT AGREEMENT** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Scott Elliott, Esquire
Elliott & Elliott, P.A.
721 Olive Street
Columbia, SC, 29205

Sue-Ann Gerald Shannon, Esquire
McNair Law Firm, P.A.
Post Office Box 11390
Columbia, SC, 29211



Chrystal L. Morgan

June 30, 2009
Columbia, South Carolina